

our fellow citizens who happen to be women. What is their right? What is their purpose? What is their justification—whether those individuals are disabled, whether they are elderly, whether they are being discriminated against on the basis of religion—we are going to continue to permit that here in the United States when we have the opportunity to overturn it? That is what is going to be before the Senate on Wednesday.

It is simple; it is fundamental; it is basic. It is a defining issue of fairness in this country and we will have more to say about this tomorrow and on Wednesday as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

LEDBETTER FAIR PAY ACT OF 2007—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I would move to Calendar No. 325, H.R. 2831. I indicated to the minority that I would do that now. As a result of their indicating they would not be in agreement to do that, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 325, H.R. 2831, the Fair Pay Act.

Harry Reid, Daniel K. Inouye, Barbara Boxer, Patty Murray, Byron L. Dorgan, Edward M. Kennedy, Christopher J. Dodd, Daniel K. Akaka, Benjamin L. Cardin, Patrick J. Leahy, Bernard Sanders, Sherrod Brown, Amy Klobuchar, Richard Durbin, Ken Salazar, Sheldon Whitehouse, Max Baucus.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. This is an important piece of legislation that we talked about moving to. It deals with fair pay. In the morning we are going to have the morning hour. We are going to have a number of Senators, and a lot of female Senators, come and speak on this issue because this is certainly an issue that is important to women all over America today. We are anxious to get to this. We hope the Republicans will let us proceed to it.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF PROPOSED RULEMAKING

Mr. BYRD. Madam President, I ask unanimous consent that the attached from the Office of Compliance be printed in the RECORD today, pursuant to section 304(b)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)(1)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

NOTICE OF PROPOSED RULEMAKING, AND REQUEST FOR COMMENTS FROM INTERESTED PARTIES

New proposed regulations implementing certain substantive employment rights and protections for veterans, as required by 2 U.S.C. 1316, The Congressional Accountability Act of 1995, as amended ("CAA").

BACKGROUND

The purpose of this Notice is to issue proposed substantive regulations which will implement Section 206 of the CAA which applies certain veterans' employment and re-employment rights and protections to employing offices and employees covered by the CAA.

What is the authority under the CAA for these proposed substantive regulations?

The authority under the CAA for these proposed substantive regulations is found in two sections of the CAA. Section 206 of the CAA, 2 U.S.C. §1316, applies certain provisions of the Uniformed Services Employment and Re-employment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits. Subsection 1316(c) requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may only modify the Department of Labor regulations if it can establish good cause as to why a modification would be more effective for application of the protections to the legislative branch.

The second section that provides authority to the Board to propose these regulations is found in section 1384. Section 1384 provides procedures for the rulemaking process in general.

Will these regulations, if approved, apply to all employees otherwise covered by the CAA?

Yes. USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation against eligible employees, who are defined by the CAA as covered employees performing service in the uniformed services. Section 207(a) of the CAA prohibits retaliation against covered employees under the CAA, regardless of whether they have performed service in the uniformed services. The distinction between eligible employees and covered employees is

the performance of service in the uniformed services: eligible employees have performed service in the uniformed services; covered employees have not.

Do other veterans' employment rights apply via the CAA to the legislative branch employing offices and covered employees?

No. However, another statutory scheme regarding uniformed service members' employment rights is incorporated, in part, through section 1316a of the CAA. Section 1316a applies sections 2108, 3309 through 3312 of the Veterans Employment Opportunities Act ("VEOA"), and subchapter I of chapter 35 of Title 5. These provisions accord certain hiring and retention rights to veterans of the uniformed services. The VEOA language of the CAA also requires the Board of Directors to issue substantive regulations patterned upon the most relevant substantive regulations (applicable with respect to the executive branch) which are promulgated to implement the provisions of VEOA. After engaging in extensive discussions with various stakeholders across Congress and the legislative branch to determine how best to address certain provisions within the regulations, the Board adopted the VEOA regulations and submitted them to Congress on March 21, 2008. Section 1316a of the CAA becomes effective once the regulations for this section are passed by Congress.

Which employment and reemployment protections are applied to eligible employees in 2 U.S.C. 1316?

USERRA was enacted in December 1994, and the Department of Labor final regulations for the executive branch became effective in 2006. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in military service. USERRA provides certain reemployment rights, protection from discrimination based on military service, denial of an employment benefit as a result of military service, and retaliation for enforcing USERRA protections.

The selected statutory provisions which Congress incorporated into the CAA and determined "shall apply" to eligible employees in the legislative branch include nine sections: sections 4303(13), 4304, 4311(a)(b), 4312, 4313, 4316, 4317, 4318, and paragraphs (1), (2)(A), and (3) of 4323(c) of title 38.

The first section, section 4303(13), provides a definition for "service in the uniformed services." This is the only definition in USERRA that Congress made applicable to the legislative branch. Section 4303(13) references Section 4304, which describes the "character of service" and illustrates situations which would terminate eligible employees' rights to USERRA benefits.

Congress applied section 4311 to the legislative branch in order to provide discrimination and retaliation protections, respectively to eligible and covered employees. Interestingly, although Congress adopted these protections, it did not adopt the legal standard by which to establish a violation of this section of the regulations.

Sections 4312 and 4313 outline the reemployment rights that are provided to eligible employees. These rights are automatic under the statute, and if an employee meets the eligibility requirements, he or she is entitled to the rights provided therein.

Sections 4316, 4317, and 4318 provide language on the benefits given to eligible employees. The language in these sections is largely statutory and has been altered very little by the Board.

Are there veterans' employment regulations already in force under the CAA?

No. The Board has issued to the Speaker of the House and the President Pro Tempore of